

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. A-5603

PETITION OF ANDREW TANGBORN AND SARA ZHANG
(Hearing held June 6, 2001)

OPINION OF THE BOARD
(Effective date of Opinion, August 24, 2001)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(a). The petitioners propose to construct a covered porch that requires a 7.50 foot variance as it is within 17.50 feet of the established front building line. The required setback is twenty-five (25) feet.

The subject property is Lot 3, Block V, Greenwich Forest Subdivision, located at 5704 Huntington Parkway, Bethesda, Maryland, in the R-90 Zone (Tax Account No. 495878).

Decision of the Board: Requested variance **granted**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose to construct a covered front porch.
2. Mark Kramer, the petitioners' architect, testified that Huntington Parkway is a street that is divided with a median strip and that the front of the petitioner's lot is elevated about three feet above the street. Mr. Kramer testified that because of the median, the petitioners' do not actually face another property. See, Exhibit No 4(b).
3. Mr. Kramer testified that the zoning on the petitioners' side of the street has changed from R-60 to R-90, the properties to the rear of the petitioners' lot are zoned R-90, and the properties that face the petitioners' lot are zoned R-60. Mr. Kramer testified that the typical R-90 zoned lot is 9,000 square feet and that the petitioners' lot is 5,750 square feet, making the property the second smallest lot in the immediate neighborhood.
4. The petitioner testified that the size of the porch has been reduced to the smallest dimensions that will still allow for an adequate landing for the opening of the front door. The petitioners testified that the design of the porch would not materially change the view of the front of the house and that the covered porch would be similar to other improvements in the neighborhood.

FINDINGS OF THE BOARD

Based on the petitioners' binding testimony and the evidence of record, the Board finds that the variance can be granted. The requested variance complies with the applicable standards and requirements set forth in Section 59-G-3.1 as follows:

- (a) *By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The petitioners' lot is substantially smaller than the typical R-90 zoned lot and the front of the property faces a street that is wider than the typical road. The Board finds that these are exceptional circumstances that are unique and peculiar to the property and that the strict application of the zoning regulations would result in an undue hardship upon and practical difficulties for the homeowners if the variance was not granted.

- (b) *Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.*

The Board finds that the variance requested for the construction of a covered porch is the minimum reasonably necessary to overcome the exceptional circumstances of the property.

- (c) *Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.*

The proposed construction will continue the residential use of the property and the variance will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

- (d) *Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.*

The record contains no testimony or correspondence in opposition to the variance request. The Board finds the proposed construction would not significantly change the view of the front of the residence and that the variance will not be detrimental to the use and enjoyment of the neighboring properties.

Accordingly, the requested variance of 7.50 feet from the required twenty-five (25) foot established front building line for the construction of a covered porch is granted subject to the following conditions:

1. The petitioners shall be bound by all of their testimony and exhibits of record, and the testimony of their witnesses, to the extent that such evidence and representations are identified in the Board's Opinion granting the variance.
2. Construction must be completed according to plans entered in the record as Exhibit No. 6.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Angelo M. Caputo, seconded by Donna L. Barron, with Louise L. Mayer and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution. Board member Mindy Pittell Hurwitz was necessarily absent and did not participate in this Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 24th day of August, 2001

Katherine Freeman
Executive Secretary to the Board

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.